
SUBSTITUTE HOUSE BILL 2395

State of Washington

62nd Legislature

2012 Regular Session

By House Labor & Workforce Development (originally sponsored by Representatives Sells, Reykdal, Upthegrove, Ryu, Moscoso, Ormsby, Hasegawa, Fitzgibbon, Hudgins, Darneille, Cody, Kenney, Santos, Roberts, Green, Miloscia, Pettigrew, Dickerson, Moeller, Appleton, Liias, Jinkins, Dunshee, Van De Wege, Goodman, Orwall, Hunt, Wylie, Billig, and Probst)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to drayage truck operators; adding a new section to
2 chapter 49.12 RCW; adding a new section to chapter 49.17 RCW; adding a
3 new section to chapter 49.46 RCW; adding a new section to chapter 49.48
4 RCW; adding a new section to chapter 49.60 RCW; adding a new section to
5 chapter 50.04 RCW; and creating new sections.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that under applicable
8 legal standards, drayage truck operators are covered workers for
9 purposes of various employment protections. The legislature also finds
10 that employers of drayage truck operators nonetheless classify drayage
11 truck operators as uncovered independent contractors. In addition to
12 violating the law, this misclassification results in operators working
13 in unsafe conditions and without the benefit of such protections as
14 overtime wages and unemployment benefits. Misclassification is also
15 unfair to law-abiding businesses and results in lost revenue to the
16 state. The legislature further finds that current enforcement
17 mechanisms have proved inadequate and that most drayage truck operators
18 remain improperly classified. By defining drayage drivers as statutory
19 covered employees, the legislature intends to enforce current law,

1 avoid litigation, increase safety to drivers and the public, insure
2 drivers receive employment protections to which they are entitled, and
3 facilitate collection of taxes. The legislature intends that the
4 statutory inclusion of drayage drivers under the employment standards
5 in this act is not evidence of legislative intent to exclude drayage
6 drivers from the protection of other employment standards.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.12 RCW
8 to read as follows:

9 A drayage truck operator is an employee and the motor carrier that
10 directly engages the services of the drayage truck operator is the
11 employer for purposes of this chapter. For purposes of this section,
12 "drayage truck operator" means the driver of any in-use on-road vehicle
13 with a gross vehicle weight rating greater than thirty-three thousand
14 pounds operating on or transgressing through a port that handles in
15 excess of one million twenty foot equivalent units of containerized
16 cargo or an intermodal rail yard property within fifty miles of such a
17 port, for the purpose of loading, unloading, or transporting
18 containerized cargo.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.17 RCW
20 to read as follows:

21 A drayage truck operator is an employee and the motor carrier that
22 directly engages the services of the drayage truck operator is the
23 employer for purposes of this chapter. For purposes of this section,
24 "drayage truck operator" means the driver of any in-use on-road vehicle
25 with a gross vehicle weight rating greater than thirty-three thousand
26 pounds operating on or transgressing through a port that handles in
27 excess of one million twenty foot equivalent units of containerized
28 cargo or an intermodal rail yard property within fifty miles of such a
29 port, for the purpose of loading, unloading, or transporting
30 containerized cargo.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.46 RCW
32 to read as follows:

33 A drayage truck operator is an employee and the motor carrier that
34 directly engages the services of the drayage truck operator is the
35 employer for purposes of this chapter. For purposes of this section,

1 "drayage truck operator" means the driver of any in-use on-road vehicle
2 with a gross vehicle weight rating greater than thirty-three thousand
3 pounds operating on or transgressing through a port that handles in
4 excess of one million twenty foot equivalent units of containerized
5 cargo or an intermodal rail yard property within fifty miles of such a
6 port, for the purpose of loading, unloading, or transporting
7 containerized cargo.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 49.48 RCW
9 to read as follows:

10 A drayage truck operator is an employee and the motor carrier that
11 directly engages the services of the drayage truck operator is the
12 employer for purposes of this chapter. For purposes of this section,
13 "drayage truck operator" means the driver of any in-use on-road vehicle
14 with a gross vehicle weight rating greater than thirty-three thousand
15 pounds operating on or transgressing through a port that handles in
16 excess of one million twenty foot equivalent units of containerized
17 cargo or an intermodal rail yard property within fifty miles of such a
18 port, for the purpose of loading, unloading, or transporting
19 containerized cargo.

20 NEW SECTION. **Sec. 6.** A new section is added to chapter 49.60 RCW
21 to read as follows:

22 A drayage truck operator is an employee and the motor carrier that
23 directly engages the services of the drayage truck operator is the
24 employer for purposes of this chapter. For purposes of this section,
25 "drayage truck operator" means the driver of any in-use on-road vehicle
26 with a gross vehicle weight rating greater than thirty-three thousand
27 pounds operating on or transgressing through a port that handles in
28 excess of one million twenty foot equivalent units of containerized
29 cargo or an intermodal rail yard property within fifty miles of such a
30 port, for the purpose of loading, unloading, or transporting
31 containerized cargo.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 50.04 RCW
33 to read as follows:

34 Services performed by a drayage truck operator are considered
35 services in employment, not subject to RCW 50.04.140. For purposes of

1 this section, "drayage truck operator" means the driver of any in-use
2 on-road vehicle with a gross vehicle weight rating greater than thirty-
3 three thousand pounds operating on or transgressing through a port that
4 handles in excess of one million twenty foot equivalent units of
5 containerized cargo or an intermodal rail yard property within fifty
6 miles of such a port, for the purpose of loading, unloading, or
7 transporting containerized cargo.

8 NEW SECTION. **Sec. 8.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 9.** If any part of this act is found to be in
13 conflict with federal requirements that are a prescribed condition to
14 the allocation of federal funds to the state, the conflicting part of
15 this act is inoperative solely to the extent of the conflict and with
16 respect to the agencies directly affected, and this finding does not
17 affect the operation of the remainder of this act in its application to
18 the agencies concerned. Rules adopted under this act must meet federal
19 requirements that are a necessary condition to the receipt of federal
20 funds by the state.

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